

Development Amid Hazardous Waste and Border Zone Property

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We Are Going To Cover

- Part 1 - The issue of hazardous waste and border zone property as covered in CH&SC Section 25221 and its relationship to land development in Nevada County
 - The law and its implementation
 - Look at the impact to Nevada County
 - Look at Nevada County's process to address the issue
- Part 2 - Review: A Map of the issues relating to AMLs
 - Review impacts and the agencies involved with AMLs
 - Look at the regulations and protocol involved with AMLs
 - Consider process presently used to address the issue and look for ways to streamline

California Health and Safety Code Section 25221

- 25221. (a) Any person as owner, lessor, or lessee who (1) knows, or has probable cause to believe, that a significant disposal of hazardous waste has occurred on, under, or into the land which he or she owns or leases or that the land is within 2,000 feet of a significant disposal of hazardous waste, and (2) intends to construct or allow the construction on that land of a building or structure to be used for a purpose which is described in subdivision (b) of Section 25232 within one year, shall apply to the department prior to construction for a determination as to whether the land should be designated a hazardous waste property or a border zone property pursuant to Section 25229. The addition of rooms or living space to an existing single-family dwelling or other minor repairs or improvements to residential property which do not change the use of the property or increase the population density does not constitute the construction of a building or structure for purposes of this subdivision ...

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Definitions

- Hazardous Waste Property (HWP): / CHSC Sec. / CHSC Sec. 25117.3 (a) 1&2:
“Any hazardous waste facility or portion thereof, required to be permitted pursuant to this chapter, which has a permit for disposal from the department or has submitted an application for such a permit.”

or

Definitions

- HWP (cont.):

“A portion of any land designated as a hazardous waste property pursuant to Section 25229 where a significant disposal of hazardous waste has occurred on, under, or into the land resulting in a significant existing or potential hazard to present or future public health or safety.”

Definitions

- Border Zone Property (BZP) / CHSC Sec. 25117.4:

“Any property designated as border zone property pursuant to Section 25229 which is within 2,000 feet of a significant disposal of hazardous waste, and the wastes so located are a significant existing or potential hazard to present or future public health or safety on the land in question.”

The Intent Of The Law

- Is to limit human exposure to hazardous materials/waste by monitoring development in close proximity to impacted areas.
- This is accomplished by controlling development on hazardous waste property or property within as much as 2000' of a hazardous waste property, ie. border zone property for the proposed occupancies listed below. Per CHSC Section [25232](#).
 - Residences
 - Hospitals
 - Schools for persons under 21 years of age
 - Day Care for children
 - Any permanently occupied human habitation other than those used for industrial purposes

How Big of an Issues Is This?

- In Nevada County
 - Over the past 15 years there were 7352 new homes built in Nevada County. This equates to \$876,861,949 worth of residential development.
 - Presently I have three lists of information on only mining sites in Nevada County, with a combined total of over 3000 entries. This does not include the Calsite's list for other issues.
- Other counties have the same or similar issue.

When Is There Need For Env. Health To Review A Proposed Development For Compliance With CHSC Section 25221?

■ From a Public Health Point of View

When there is reason to believe that proposed development is on or within 2000 feet of a property where hazardous waste has been disposed. — Not easily addressed

■ Examples, When construction is proposed on or near :

- Property listed on the Calsites list.
- Present or former industrial or agricultural property.
- Present or former mining property. —

Below Is a Graphic Representation of the Issue in Nevada County, Plotting Only Some of the Possible Mine Sites in the County.

The bullets indicate possible 2000 foot radius for buffers from data points identified in:

Toms_pt.shp:

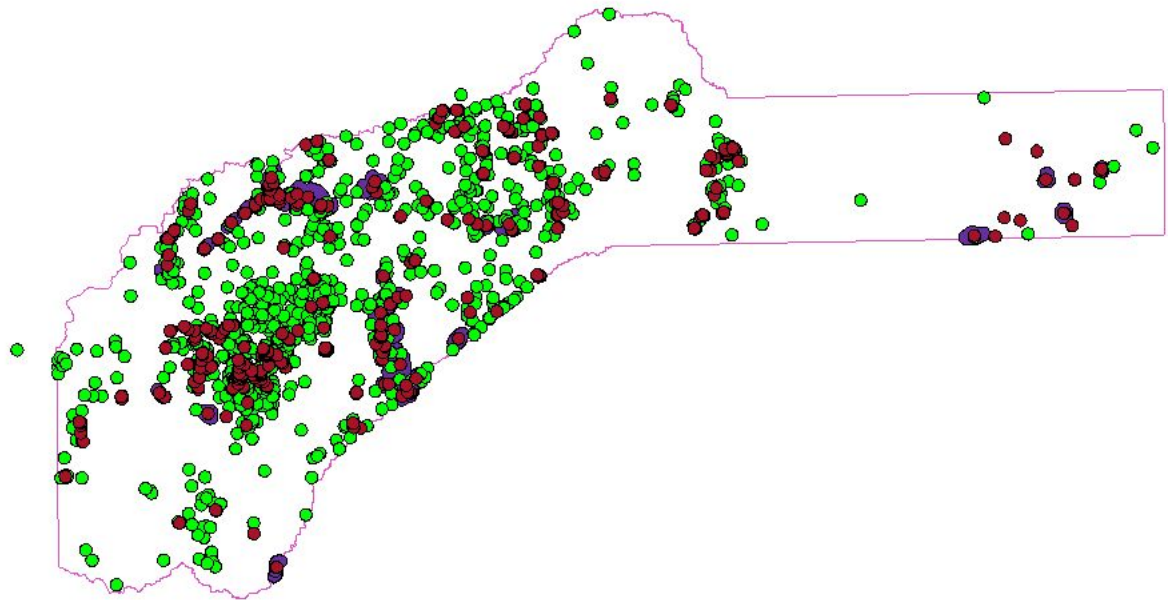
As indicated by the Red bullets:

Mine.shp

As indicated by the Green bullets:

Toms_poly.shp

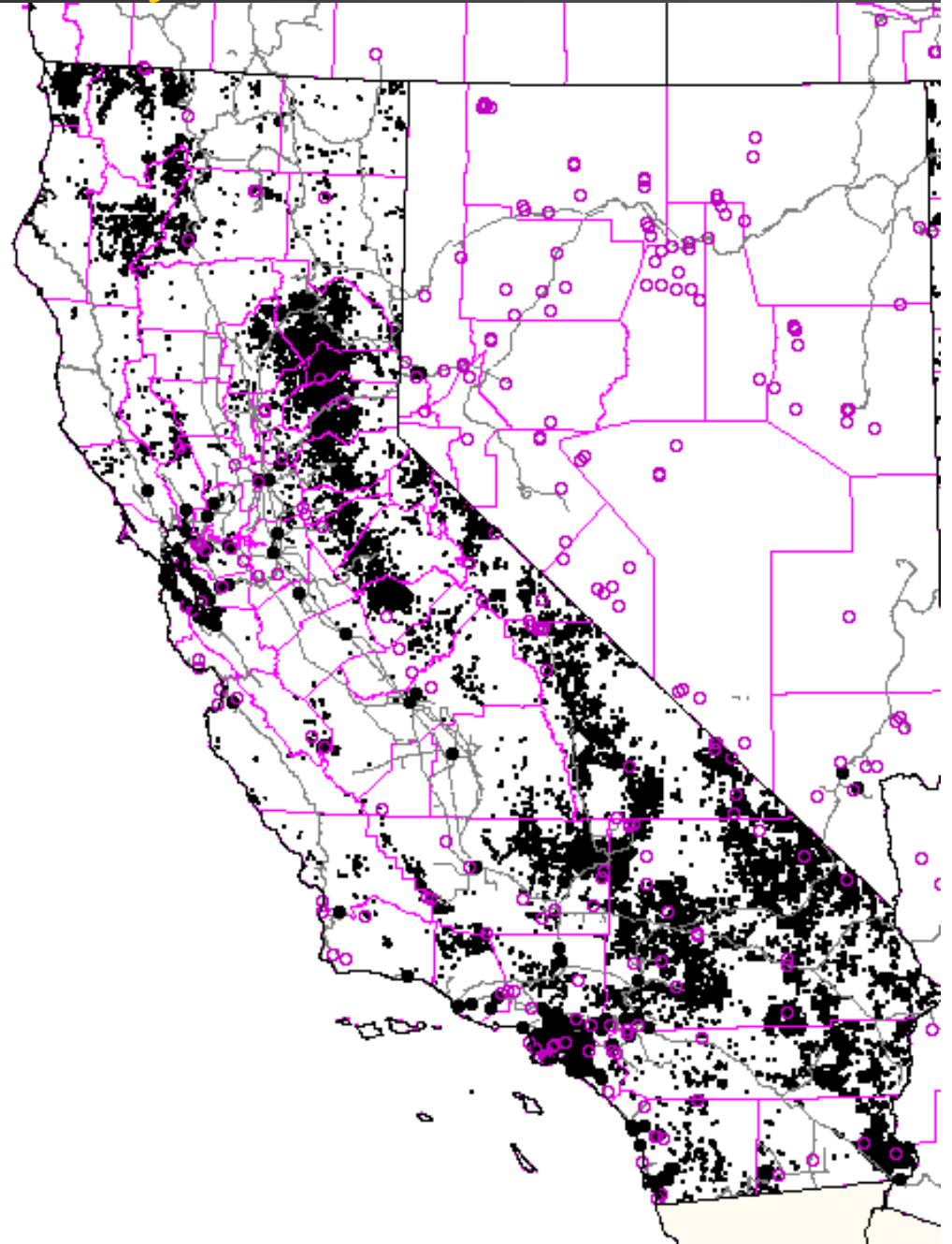
As indicated by the Blue bullets:



Example of Mining Activity Across the State

- The Black dots represent mining claims.
- The Pink circles represent active mines.
- The counties of California are outlined in Pink.

The source of the map is the USGS web page.



Effects of CH&SC 25221

- Compliance with this statute could involve a substantial increased cost to development as well as a significant increase in review time for permit processing

When AML's Become a Local Issue

- During the Subdivision of Land
 - Requiring compliance with:
 - State Regulations
 - California Environmental Quality Act (CEQA)
 - Health & Safety Code
 - County Land Use and Development Code -
- When filing a Building Permit Application
 - State Requirements
 - Health & Safety Code

Subdivision of Land

Parcel Map Review – First 30 Days

- The application is checked to see if the applicant has addressed the issue.
- The mining information available to the County is reviewed.
- If there is no probable cause to believe, that a significant disposal of hazardous waste has occurred - the project proceeds.

If not...

Parcel Map Review – First 30 Days

Cont.

- The Project is deemed incomplete and more information is requested.
- The process followed is the Departments Changing Land Use flow chart.

Changing Land Use Process Flowchart

Step #1. The applicant signs the provided certification declaring that the property in question meets the following criteria: 1) Did not have a former land use where hazardous materials were used or were generated, 2) Was not the site of former commercial, industrial, mining, or agriculture activity, 3) Is not listed on a County, State, or Federal list indicating it is or was a spill site or subject to known physical hazards, and 4) No indications of any of these conditions on the property. If the property meets these criteria, the application proceeds to Step #10. If these criteria are not met, the project proceeds to Step #2. Additionally, if any of these conditions are identified during review of the site, the project will either be deemed incomplete or pulled from further review until it meets the requirements defined under Step #2.

Step #2. The applicant defines the scope of the project and has a Phase I assessment prepared in accordance with the American Society for Testing and Materials (ASTM) Standard E 1527-00. Once completed, the applicant and their consultant review the findings of the Phase I assessment for indications that the property is a potentially impacted site prior to the project's submittal to the Planning Department. A potentially impacted property would be evident through the identification of any of the following activities on the property: Mining, burn dumps, former commercial or industrial activity, former agricultural activities, former military sites, saw mills, or property impacted by the presence of hazardous substances.

- If there are no indications that the property is potentially impacted by its former use, the project proceeds to Step #10.
- If there are indications of potential impact(s) to the property, from the prior land use the applicant proceeds to Step #3. At the applicant's discretion, the project may proceed directly to Step #6.

Step #3. Contact Nevada County Department of Environmental Health (NCDEH) and submit: (1) A Fee Agreement form with the appropriate fee. (2) All information developed to date in Steps #1 and #2.

Step #4. On receipt of the information from Step #3 NCDEH will review the project and make a determination on whether the property is a potentially impacted site.

Yes or No

If the answer is NO the project proceeds to Step #10.

If the answer is YES, NCDEH determines which of the following categories the project fits into:

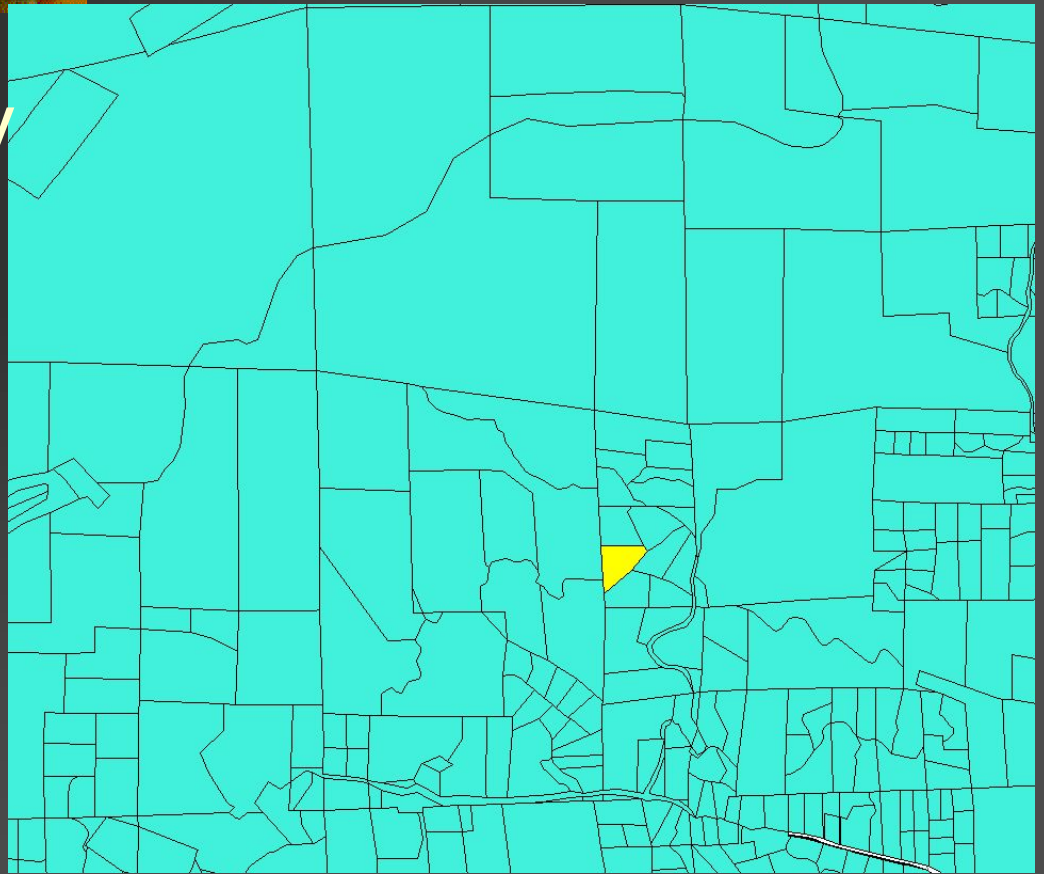
1. Unvested projects, a new project with no prior approvals, the project will be directed to Step #6 to meet with the Department of Toxic Substances Control (DTSC). An exception to this is outlined below under "Small projects".
2. Vested projects, pre-existing property zoned for a single family dwelling, and proposing the same, will be processed in accordance

Step #6. Contact the California Department of Toxic Substances Control (DTSC) Site Mitigation Group to consult with them regarding review processes available to address the potential human health risks associated with the former land use and determining if mitigation is necessary.

Step #7. The applicant enters into an agreement under the Voluntary Cleanup Program with DTSC. Following approval of the proposed PEA workplan, activities can begin. DTSC or NCDEH will provide oversight during the field sampling activities.

An Example

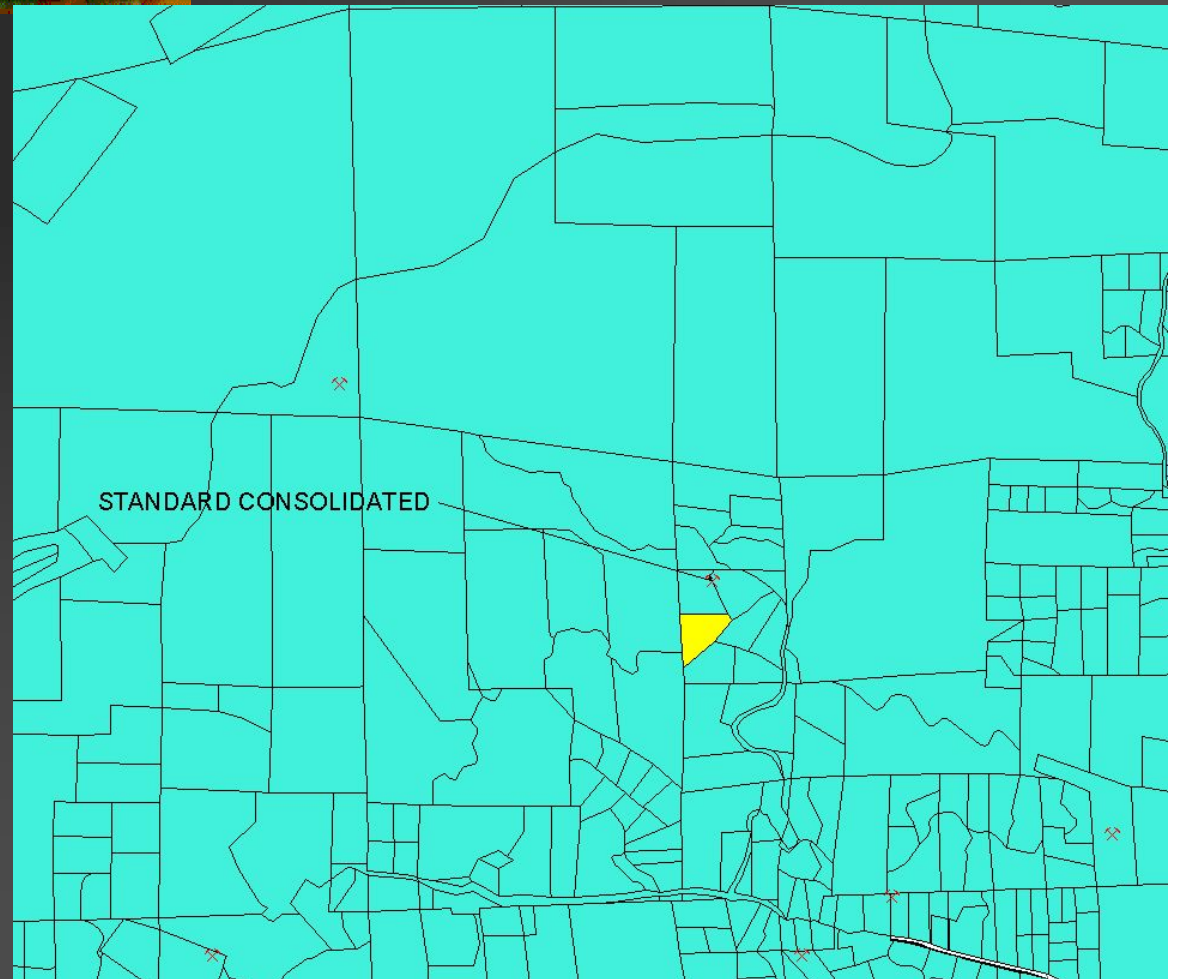
■ The owners of highlighted parcel may apply for either a parcel map or residential building permit. The question then: Is it a hazardous waste property (HWP) or is it within 2000' of a HWP?



What Raises The Question

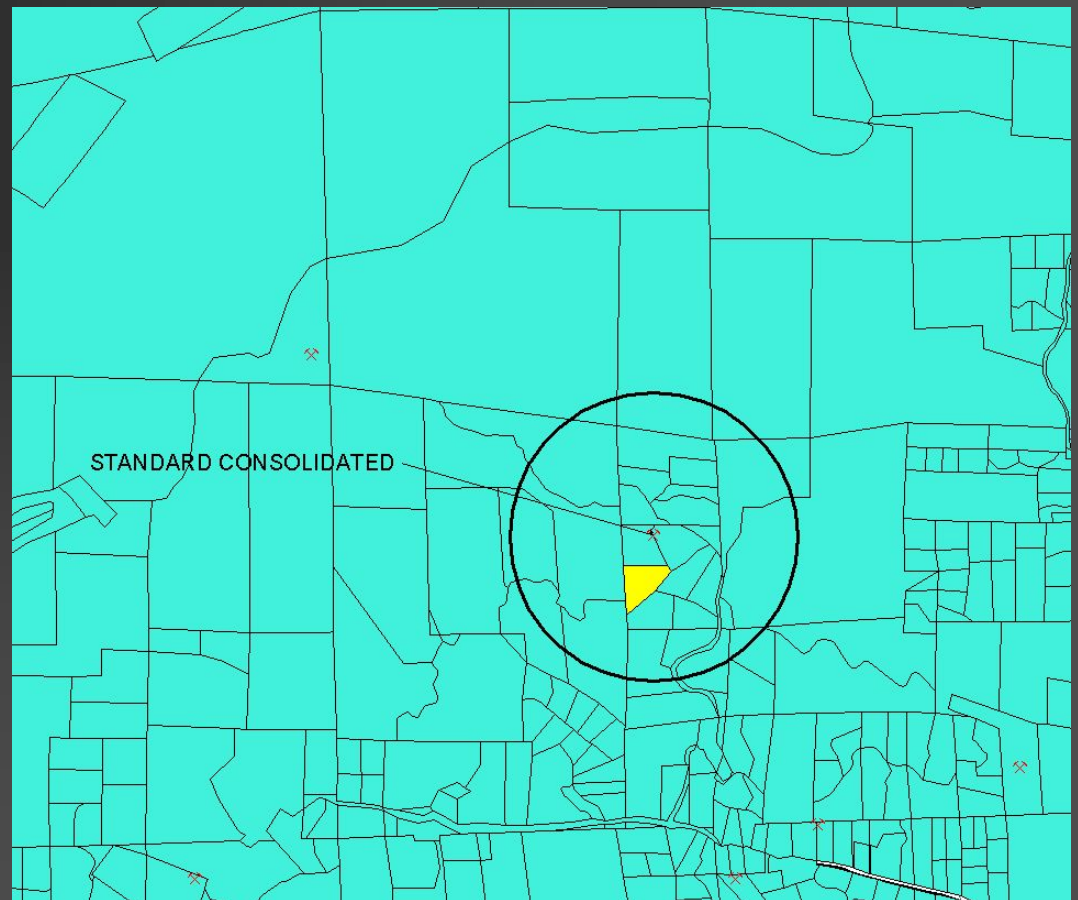
■ In reviewing the records a mine is located on an adjacent parcel - the Standard Consolidated mine.

The data comes from the Mine.shp data base.

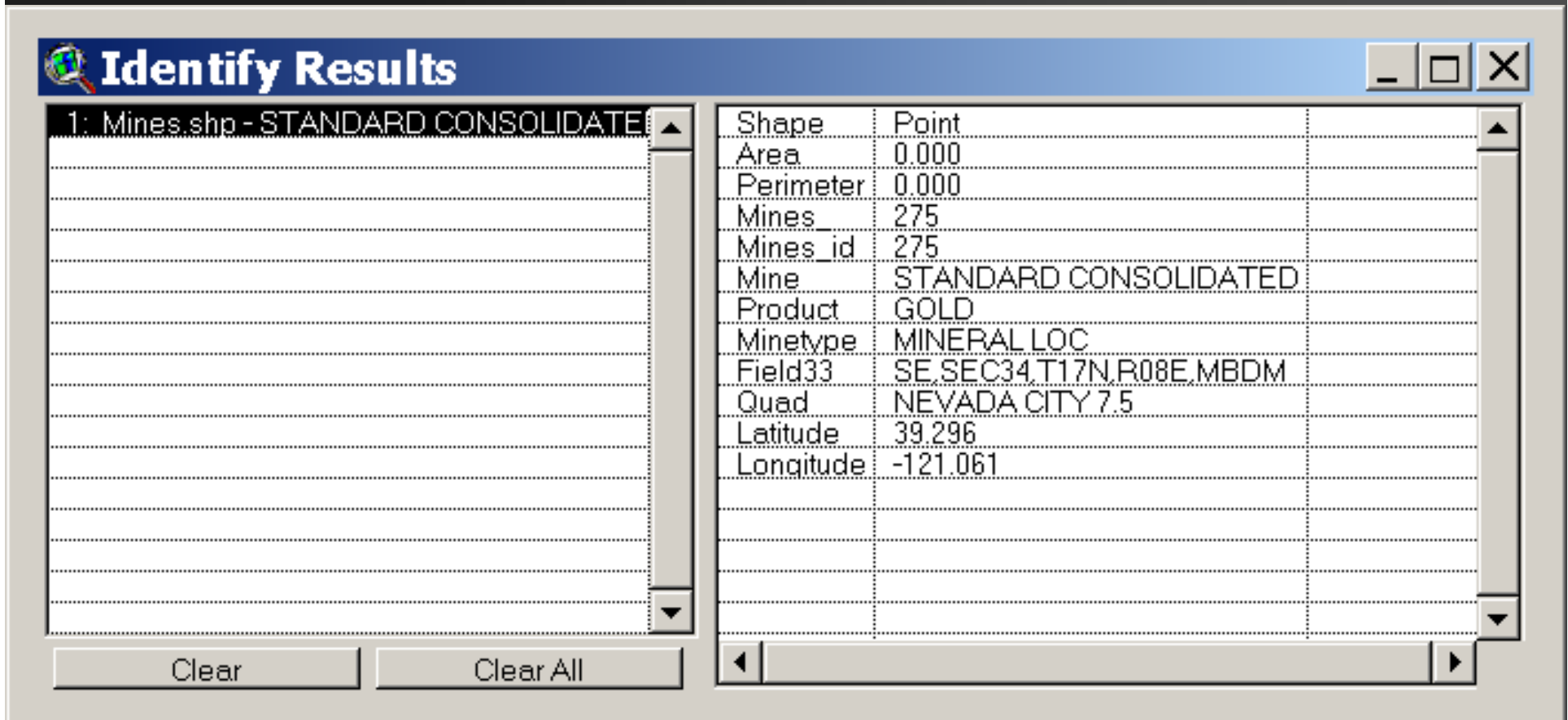


The Question Then Is How Far Away Is the Mine From the Project Property?

- The circle represents the 2000' radius from the indicated mine location.



Information Available in Mines.shp File



Follow up

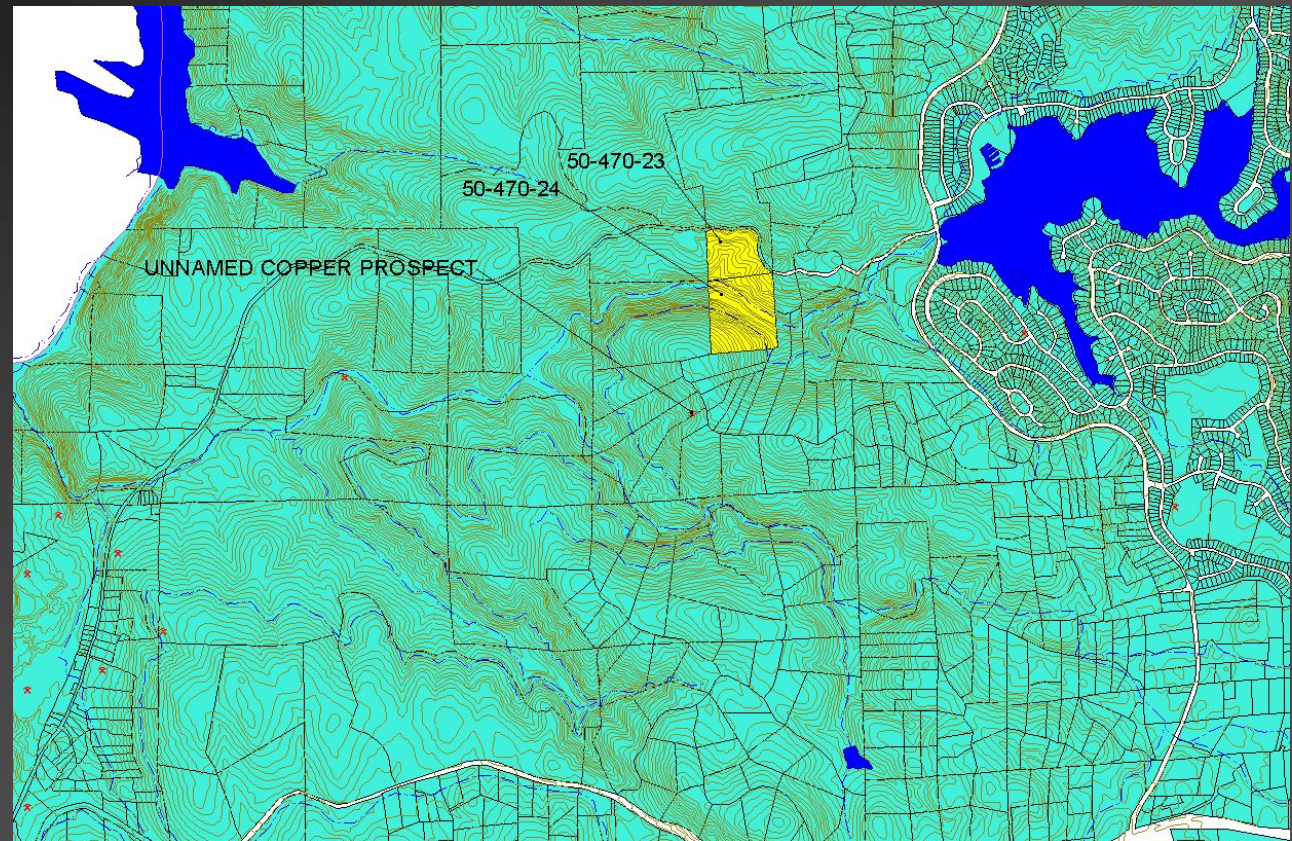
- Step #1. Phase One assessment to determine the type and extent of the mining operation.
- Step #2. Possibly a Phase Two assessment to determine if there is hazardous waste on the mine site property that would require further review.
- Step #3. Request DTSC for determination as to whether the land should be designated a hazardous waste property or a border zone property pursuant to Section 25229

An Example Where There Was Sufficient Information to Process the Permit Without Further Review

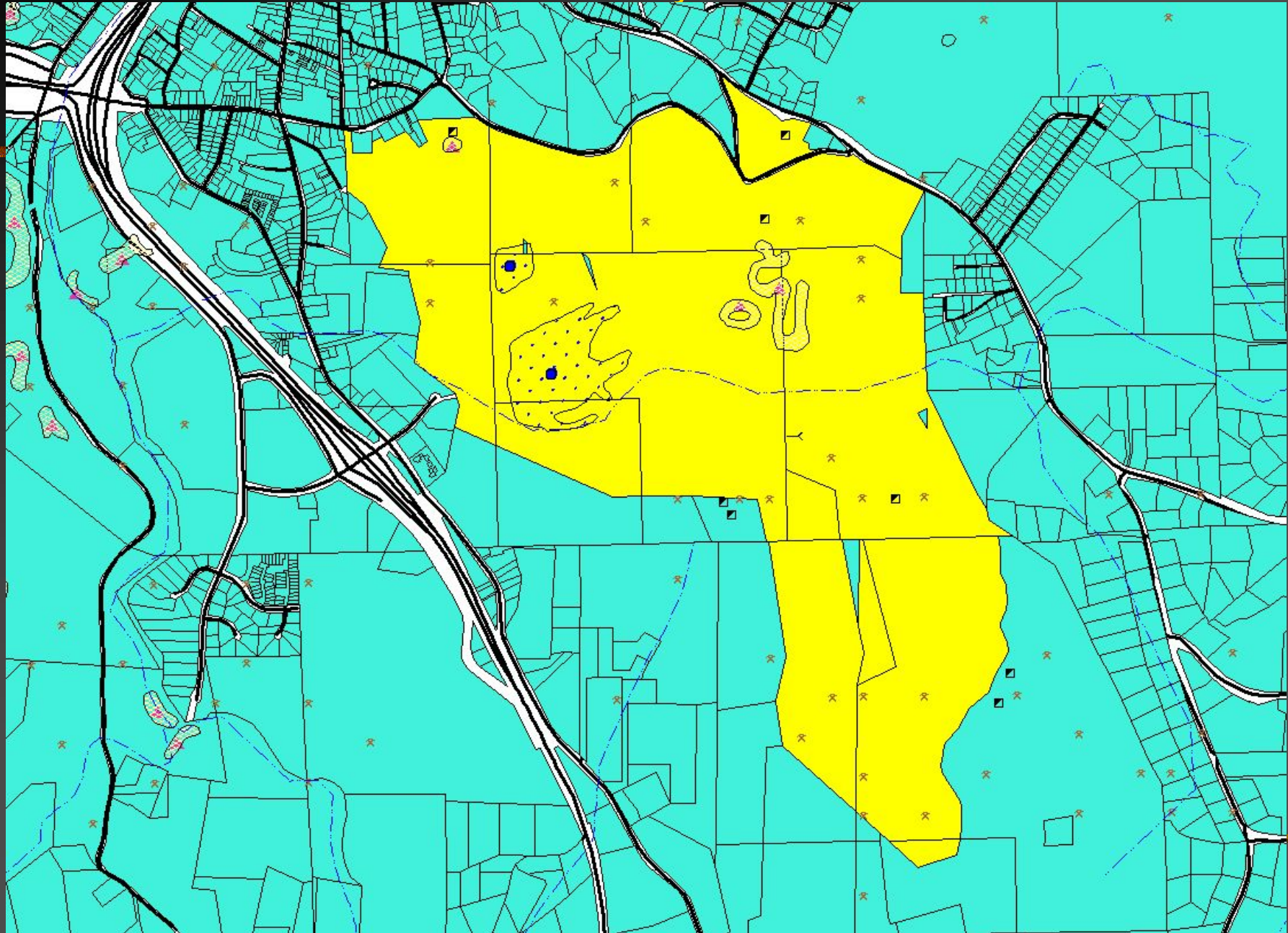
The property in yellow was being reviewed for a parcel map. The presence of the former mine became an issue. In that it was within 2000' of

APN 50-470-24

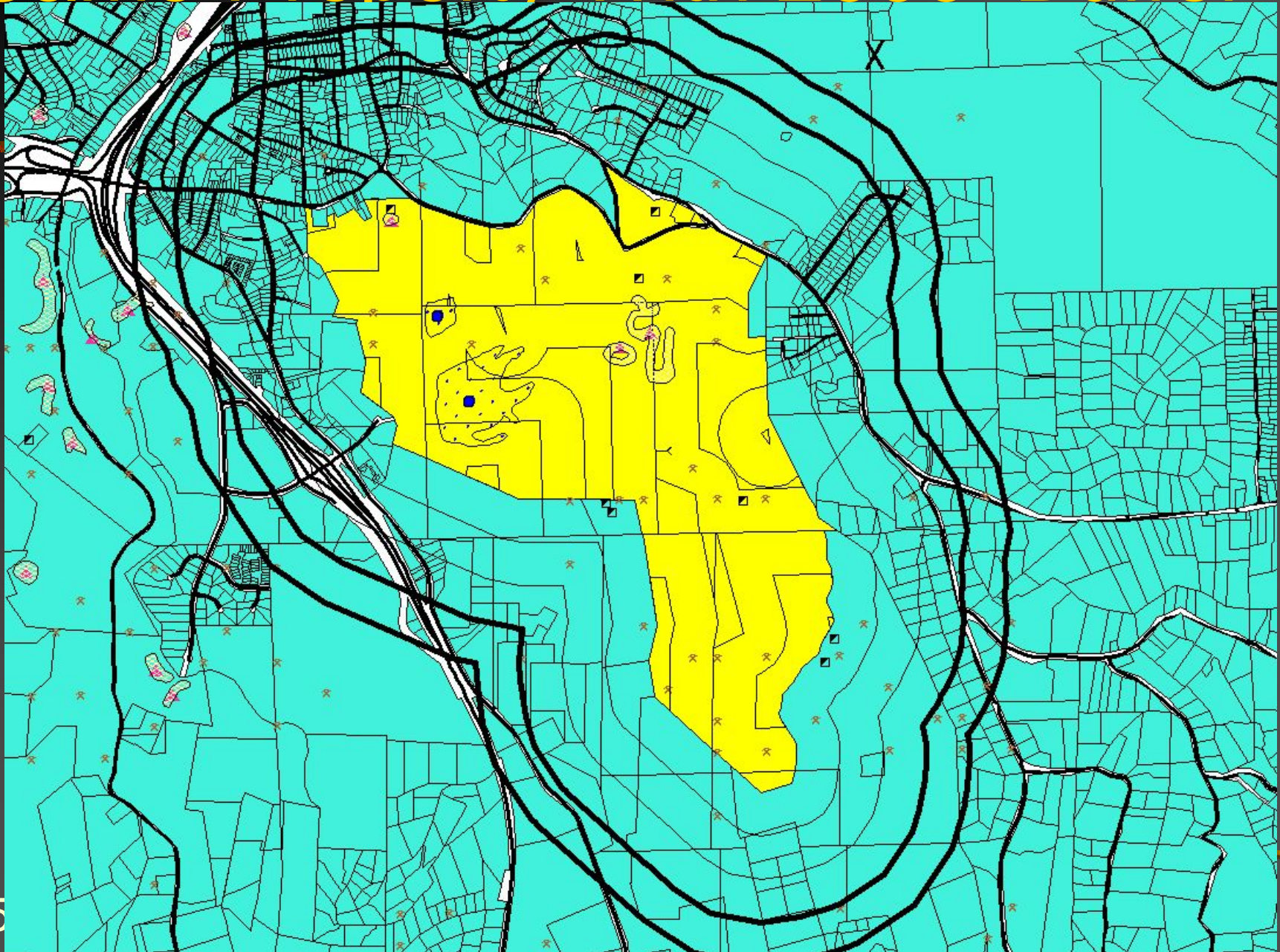
This project was not held up.

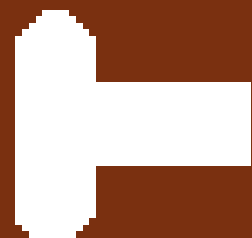


The State Property Showing Locations of Reported Mining Activity.



Same Property With 2000' Buffer





10
Minute
Break

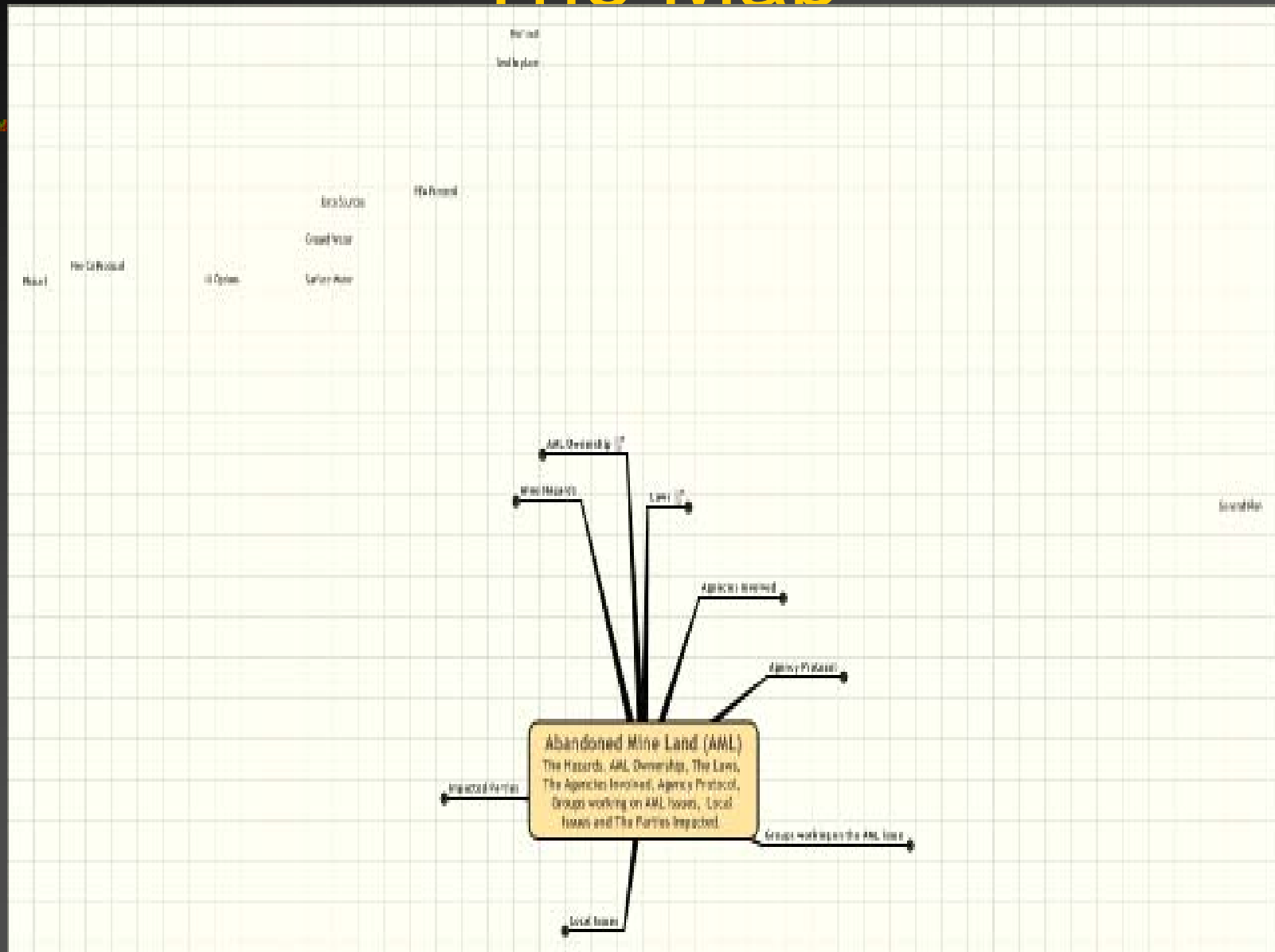




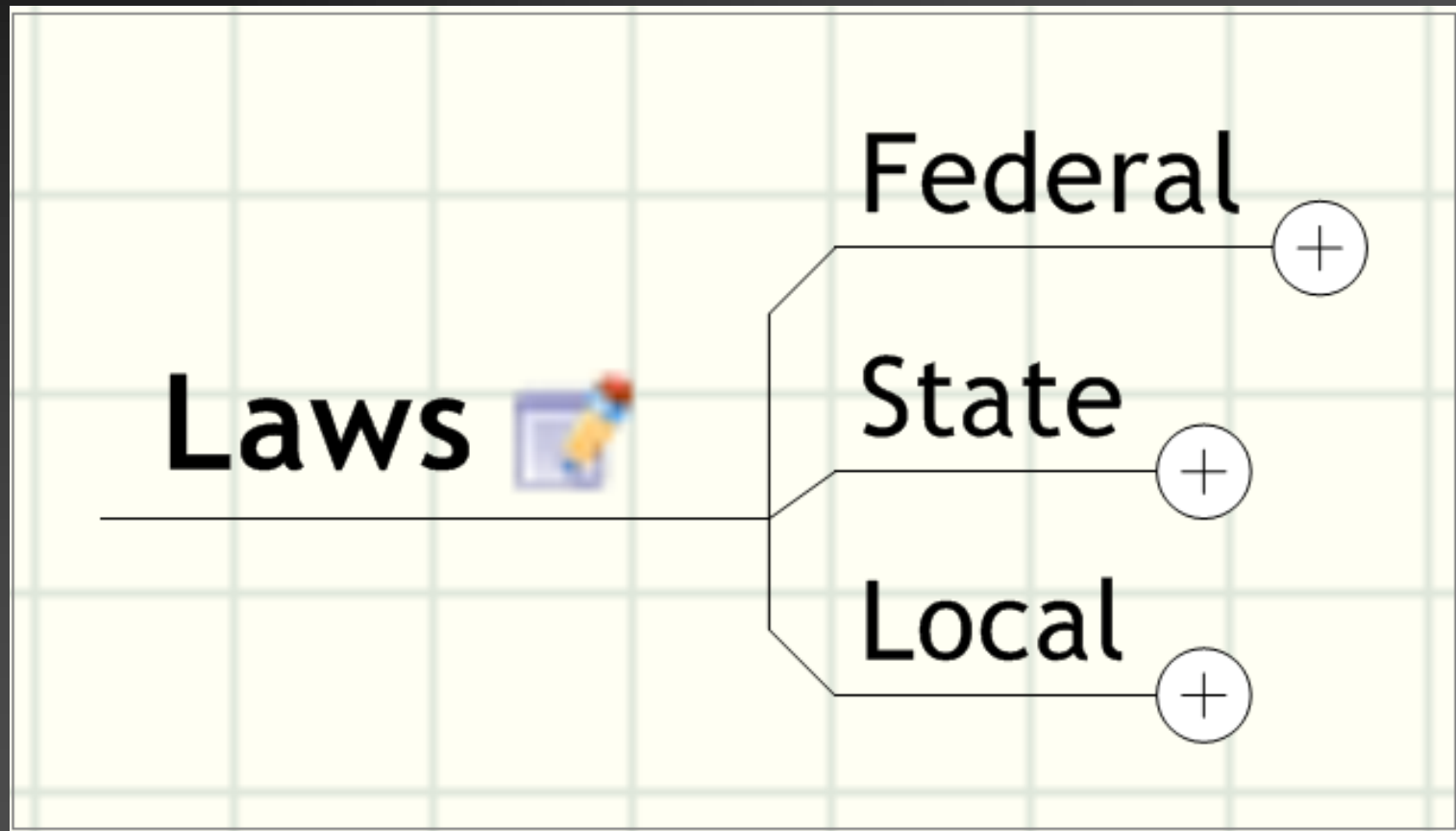
Abandoned Mine Land (AML)

**The Hazards, AML Ownership,
The Laws, The Agencies Involved,
Agency Protocol, Groups Working
on AML Issues, Local Issues and
The Parties Impacted.**

The Map



Laws



Federal

- National Environmental Policy Act (NEPA)
- Clean Water Act
 - National Pollutant Discharge Elimination System (NPDES) ...
- Resource Conservation and Recovery Act
- Comprehensive Environmental Response, Compensation, and Liability Act (Superfund)
- Surface Mining Control And Reclamation Act

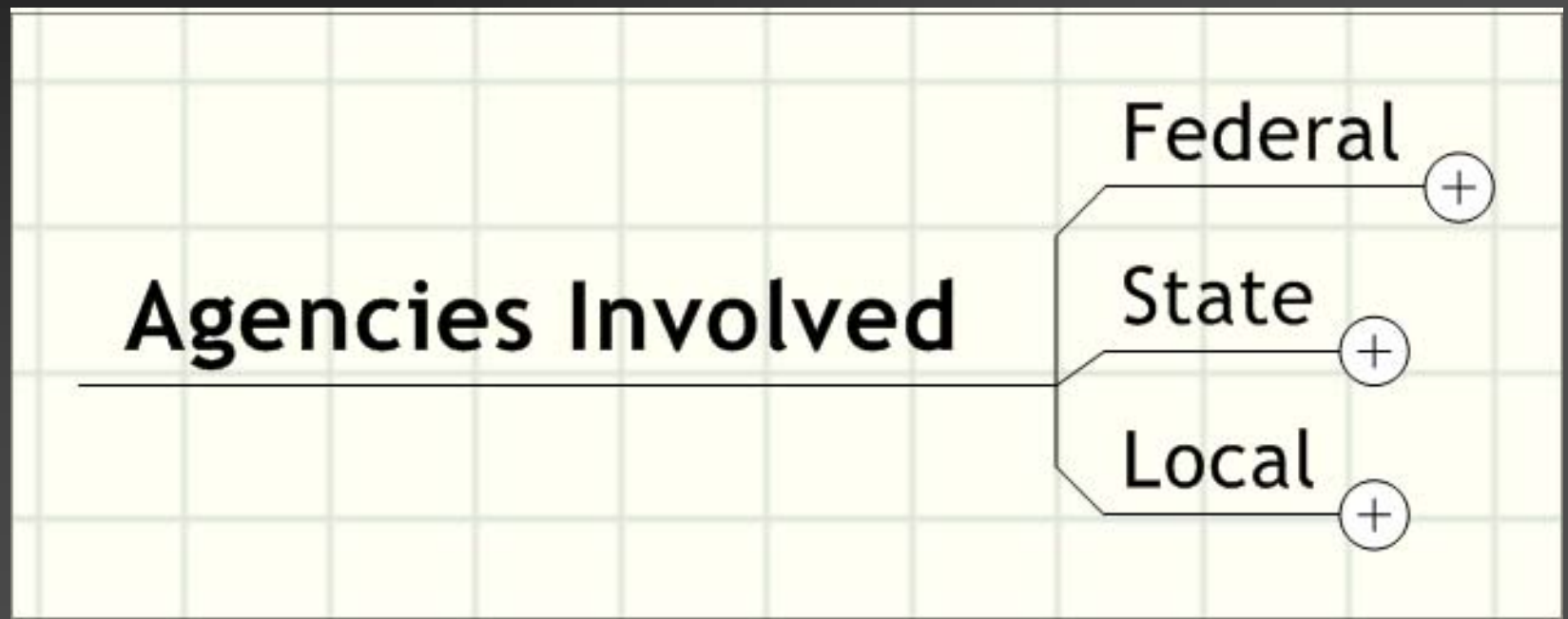
State

- California Environmental Quality Act (CEQA)
- California Law - Health and Safety Code
 - Hazards Waste Chapter. 6.5
 - H&SC Section 25221
 - Hazardous Substance Account Chapter. 6.8
- Surface Mining And Reclamation Act of 1975 And Associated Regulations

Local

- County Ordinance
 - General Plan
 - LUDC Chapter IX Hazardous Materials Storage Ordinance

Agencies Involved



Federal

- EPA - Region IX
- BLM
- Army Corp
- U.S. Geological Survey

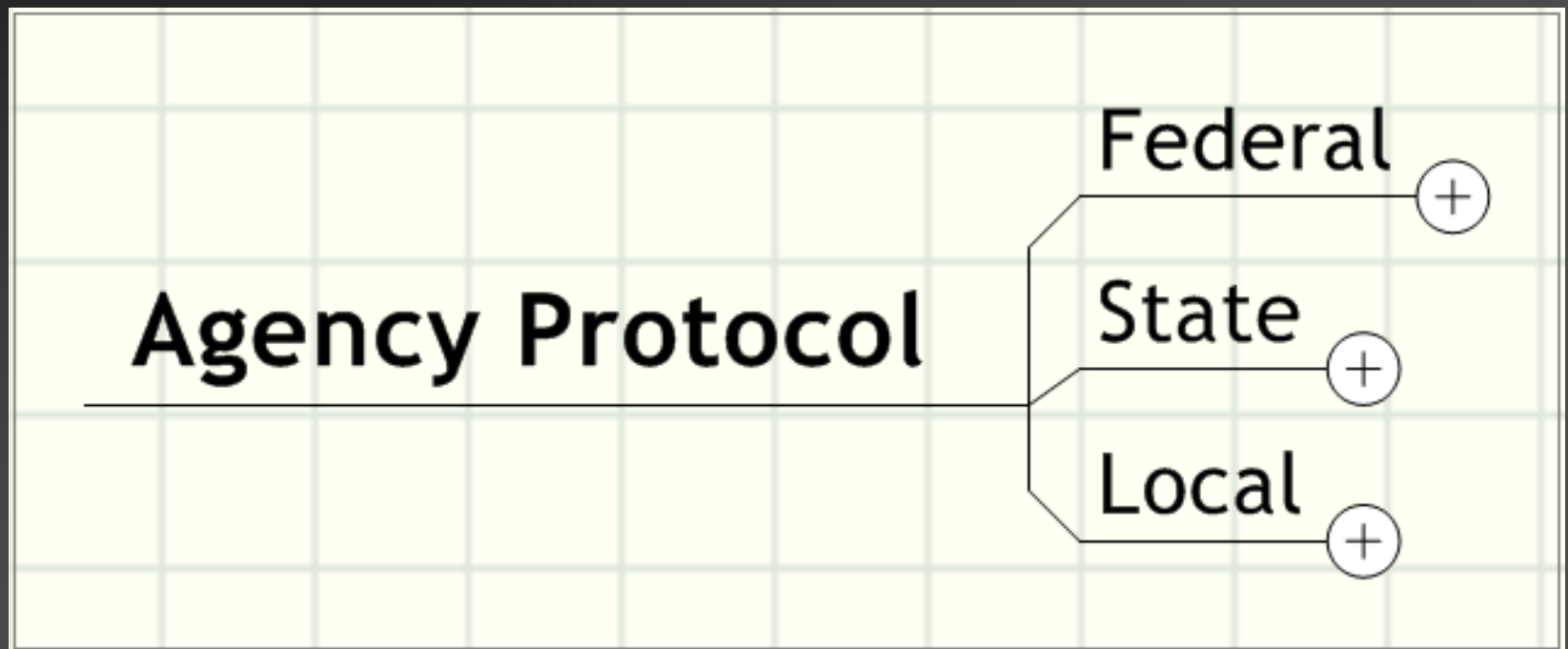
State

- CAL EPA
 - DTSC
 - SWRCB
 - CV - RWQCB
- Department of Conservation
 - Office of Mine Reclamation
- Mines and Mineral Resources
- State Mining & Geology Board
- California Geological Survey

Local

- County
 - Planning Dept.
 - Environmental Health Dept.
 - Building Dept.
- City
 - Planning Dept.
 - Building Dept.

Agency Protocol



Federal

- EPA - Region IX
 - Superfund Cleanup
 - BLM
 - AML Ownership
 - Assessment
 - Remediation
 - Army Corp
 - Assessment
 - Remediation
 - U.S. Geological Survey
 - Assessment
-

State

- DTSC
- SWRCB
- CIWMB

DTSC

- VCP
 - PEA
 - Determination

SWRCB

- RWQCB
 - NPDES PERMIT

Local

- Planning Department
 - Project Review
- Department of Environmental Health
 - Federal Law
 - State Law
 - County Ordinance
 - LUDC Chapter IX Hazardous Materials Storage Ordinance
- Building Department
 - State Law
 - County Ordinance

Groups Working on the AML Issue

Groups working on the AML issue

California AML Forum



STAMLG



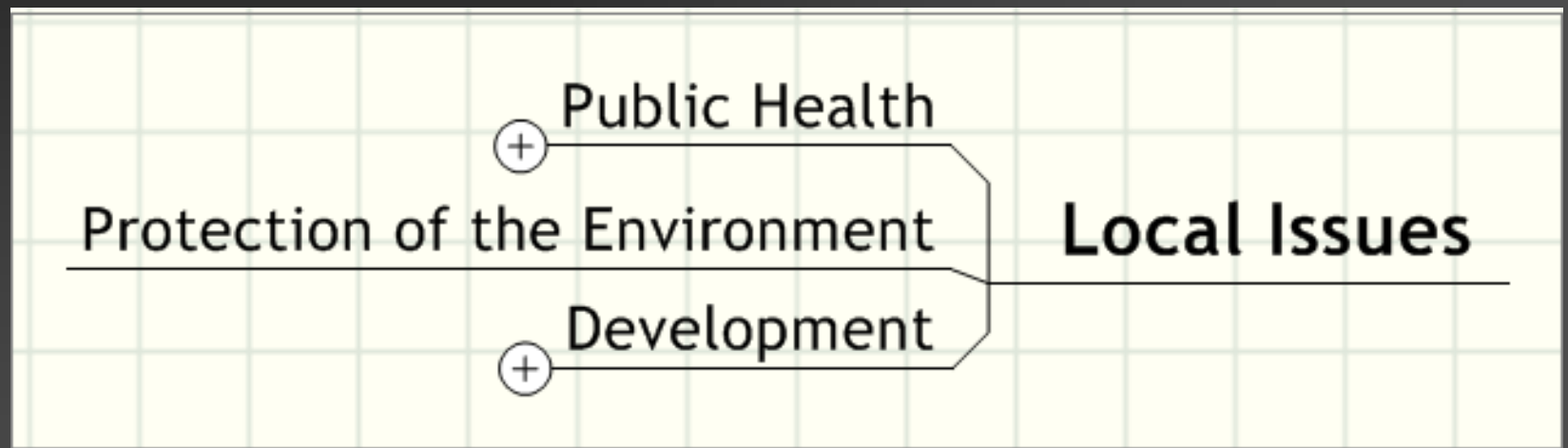
California AML Forum

- Membership - California Abandoned Mine Lands Forum
 - E-Mail List
 - Active member

Sierra Trinity Abandoned Mine Land Group (STAMLG)

- Membership - STAMLG
 - E- Mail List
 - Active member

Local Issues



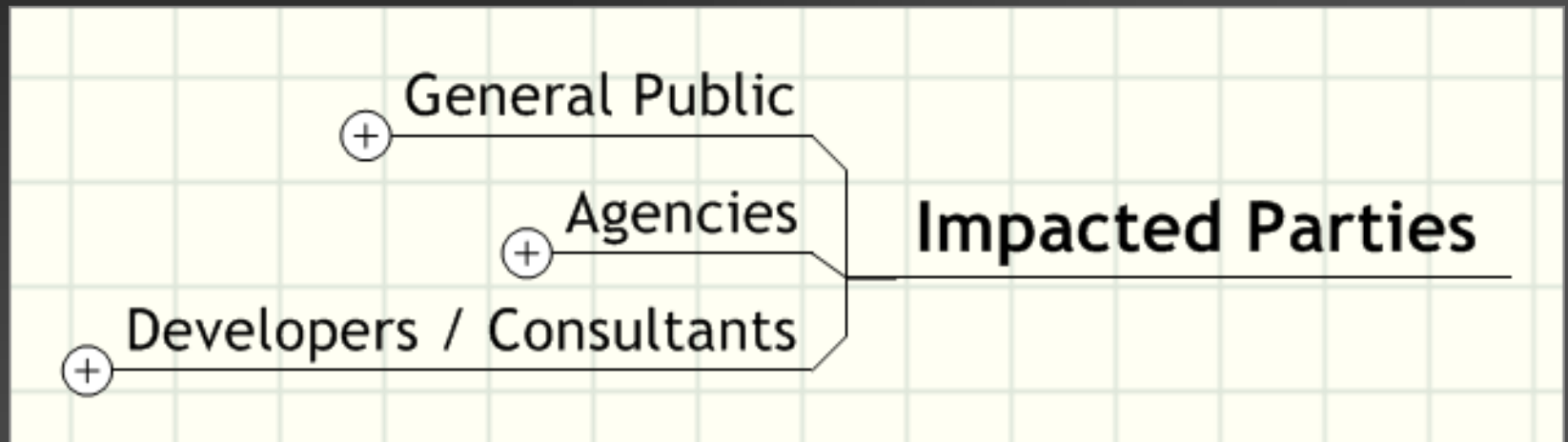
Public Health

- Public Health Thresholds

Development

- Process
- AML site Identification
 - When are AML sites an issue?
- Cost
- Time Frames

Impacted Parties



General Public

- Sites Impacted By AMLs
- Impacts to the Environment
- Populations at Risk
- Reduced use of assets
- Cost
- Delays

Populations at Risk

This can be as a result of direct or indirect exposure. An example of the indirect exposure to mercury could be:

1. The impacts from eating fish from the Delta or impacted water shed of the Sierra.
 2. The effects of the on the Delta and SF Bay resulting from the mines in the Sierra.
-

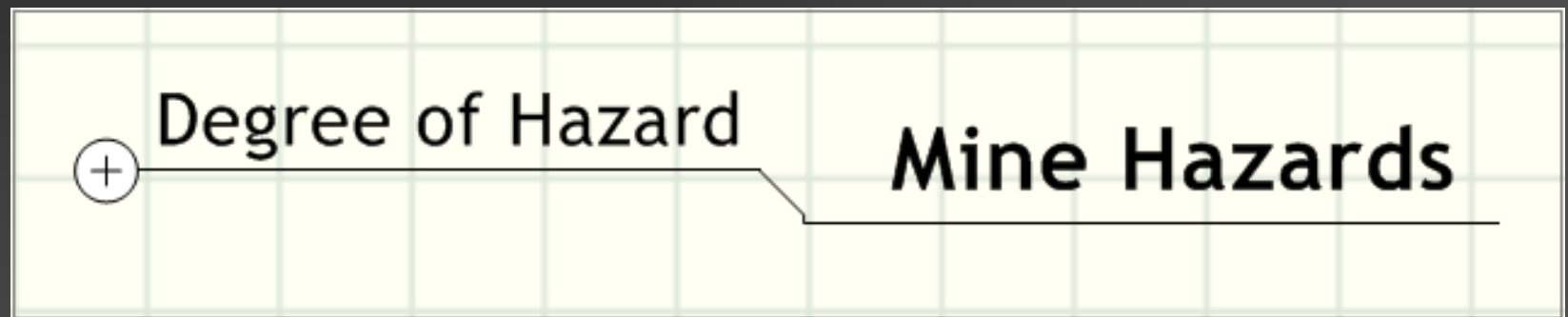
Agencies

- Workload
- Process coordination
- Cost

Developers / Consultants

- Process Coordination
- Cost
- Delays

Mine Hazards



Degree of Hazard

- Major
- Minor

Physical

- Open Shafts
- Collapsed Shafts
- Tailings Ponds
- Sluice Shafts

Toxic

- Mineral
 - Tailings
 - Mercury
 - Arsenic
 - Lead
 - Mineralized Zones hazards associated with naturally occurring background levels
 - Arsenic
 - Lead
 - Others minerals as found on a case by case basis
- Chemical
 - Processing waste
 - Acid Mine Drainage

AML Ownership



